

FILED

JUL 31 2012

UNITED STATES DISTRICT COURT
WESTERN DIVISION OF TEXAS

CLERK, U.S. DISTRICT COURT
WESTERN DISTRICT OF TEXAS
BY
DEPUTY CLERK

Civil Action, File No

W12CA198

JOHN ROBERT WEBSTER,
Plaintiff,

vs.

COMPLAINT

ESTATE OF ANTHONY JEROD KELLY,
Deceased, an Individual, and THE BEERGAS
COMPANY OF TEXAS, INC., a Texas
Corporation,
Defendants.

_____/

Linda R. Drillock P38480
DRILLOCK LAW FIRM
Attorney for Plaintiff
3030 Main Street
Marlette, MI 48453
989.635.7571/fax 2218

_____/

NOW COMES Plaintiff, John Robert Webster, by and through his attorney,
Linda R. Drillock of the Drillock Law Firm, and for his Complaint, says as
follows:

Jurisdictional Averments

1. Plaintiff is and at all pertinent times herein was a resident of Sanilac
County, State of Michigan.

2. Defendant the Estate of Anthony Jerod Kelly is duly filed in the County of Hays, and State of Texas.

3. Defendant, The Beergas Company of Texas, Inc., is a Texas Corporation with its principal place of business in the State of Texas.

4. This Honorable Court has jurisdiction founded on diversity of citizenship and, further, the matter in controversy exceeds, exclusive of interest and costs, the sum specified by 28 U.S.C. 1332 - \$75,000.00.

COMMON ALLEGATIONS

5. On August 4, 2010, Defendant's Decedent, Anthony Jerod Kelly, was operating a certain motor vehicle when he became a distracted driver and did collide with your Plaintiff's vehicle then lawfully parked on the shoulder of the roadway.

6. As a result of the accident, your Plaintiff was thrown violently from his vehicle and Plaintiff sustained injuries including, but not limited to:

- a. Three right-sided anterior rib fractures with
underlying mediastinal hematoma.
- b. Right lower leg crush injury with right fifth metatarsal
fracture

- c. Abrasion over left side of forehead and left frontal sinus fracture with small subdural hematoma.
- d. Right knee abrasion with torn meniscus
- e. Multiple abrasions and contusions
- f. Third degree burns

7. As a result of the above described injuries, your Plaintiff sustained economic damages including, but not limited to, wage loss, medical bills, supplies, replacement services, mileage, etc. totaling \$171,438.20 as of June 30, 2012, and which damages are continuing.

8. Plaintiff further has and continues to endure non-economic damages including, but not limited to, pain and suffering, disfigurement, fright, shock.

COUNT I

9. Plaintiff reaffirms and realleges each and every allegation contained in paragraphs one through eight of Plaintiff's Complaint as if fully set forth herein.

10. The actions of Anthony Jerod Kelly in causing this accident were willful, wanton, reckless and negligent and by reason thereof, Defendant, the Estate of Anthony Jerod Kelly, Deceased, is responsible to your Plaintiff for all damages caused by said accident.

11. At the time of the accident, Defendant's decedent was operating a vehicle owned by Defendant The Beergas Company of Texas, Inc., and was an employee of and acting in the course of his employment with said Defendant.

12. By reason of the above cited relationship (respondent superior), Defendant The Beergas Company of Texas, Inc., is responsible to your Plaintiff for all damages caused by Defendant's Decedent's breach of care as set forth above.

WHEREFORE, Plaintiff prays for judgment against Defendants in a sum determined to be just and equitable.

COUNT II

13. Plaintiff reaffirms and realleges each and every allegation as contained in paragraphs one through twelve of Plaintiff's Complaint as if fully set forth herein.

14. Defendant Decedent's actions in driving distracted will willful and wanton as set forth above.

15. By reason thereof, Plaintiff is entitled to an amount of exemplary damages under the Texas Civil Practice Remedies Code 41.003 et seq.

WHEREFORE, Plaintiff prays for judgment against Defendants in a sum determined to be just and equitable.

A handwritten signature in black ink, appearing to read 'Linda R. Drillock', is positioned above a horizontal line.

Linda R. Drillock P38480

DRILLOCK LAW FIRM

Attorney for Plaintiff

3030 Main Street

Marlette, MI 48453

989.635.7571

Dated: July 30, 2012